



THE GOVERNOR'S CITIZEN'S TRAFFIC STOP ADVISORY BOARD

December 19, 2008

**State Capitol Executive Tower
3rd Floor, Board of Pharmacy Conference Room
1700 West Washington Street
Phoenix, Arizona 85007**

Members Present: Luis Fernandez, Mel Hannah, Thomas Milldebrandt

Teleconference Members: Elizabeth Archuleta, Jean-Jacques "J" Cabou, Zoe Kristine Hammer Tomizuka, Sal Rivera

Absent: E. Lorenzo Jones, Orlenda Roberts

Staff: Dora Vasquez, Director, Governor's Office of Boards and Commissions, Nathan Gomez, Governor's Office of Boards and Commissions

Guest: Chief Mikel Longman, Department of Public Safety, Dan Pochoda, ACLU, Annie Lai, ACLU, Anni Foster, Arizona Attorney General's Office Melanie Pate, Executive Director of the Arizona Civil Rights Advisory Board, President John Ortolano, Fraternal Order of Police, Annie Loyd, Fusion Foundation.

Chairman Mel Hannah called the meeting to order at approximately 11:20AM. Chairman Hannah asked Board members and guests to introduce themselves. The Chairman noted that one member had to leave by noon so they would push the agenda items first before that member had to leave. The Chairman went to action item five, Final Recommendations for DPS

GENERAL BUSINESS

5. FINAL RECOMMENDATIONS FOR DPS POLICY AND PROCEDURES RELATED TO RACIAL PROFILING.

The Chairman noted that one member had to leave by noon so they would push the agenda items first before that member had to leave. The Chairman Hannah went to action item five, Final Recommendations for DPS Policy and Procedures Related to Racial Profiling.

Chairman Hannah stated that there were three items under this recommendation that they discussed in the October 16th meeting that they wanted to finalize and vote on today. The Chairman didn't feel that they needed to go over each one of the items again. There are two other action items that the Chairman wanted to consider to day as well. At a minimum, the Chairman wanted to consider at least four recommendations today. The board agreed.

Chairman Hannah asked if they needed to formalize the recommendations from last time. Dora Vasquez stated that they already formalized them from last meeting.

John Ortolano from the Fraternal Order of Police wanted to discuss the issues on the recommendation. Chairman Hannah stated that these were already voted on but he would allow discussion on them. Mr. Ortolano stated that he wanted to discuss the issue of reasonable suspicion and changing the documentation on general orders. He said that item three states consent form says the incident shall be audio recorded or video taped and not all vehicles have cameras in them. There are also communication issues. He also said video is not always great quality. He also said that requiring a reasonable consent form during a search is not standard throughout the nation. Mr. Ortolano stated that there will be times that a person will allow a police officer to search their vehicles but will refuse to sign a consent form because they may think it is an admission to guilt. That will put handcuffs on a lot of officer.

Chairman Hannah asked if they should re-open or reconsider this motion now that there is additional information provided by Mr. Ortolano.

Luis Fernandez illustrated that the recommendation has come from months of discussion from both ACLU and DPS and he did not feel that opening up the discussion was a good idea.

Chairman asked if there is a motion to re-open the discussion. There was none and board moved on.

Dora Vasquez noted that agenda item five went along with agenda item four with the sub-committee reports. The recommendation is a result of the internal review sub-committee.

Luis Fernandez thanked DPS for their work. DPS created a form on how you would categorize a consent search. Mr. Fernandez asked DPS if there was any problem with the vocabulary of the motion he was about to propose.

Chief Mikel Longman from DPS said that it was acceptable and re-expressed that document they brought forward was not the final results and it is still being developed and they will provide at least that much information.

Mr. Fernandez began reading the motion for the recommendation. He stopped in the middle of the motion to address the language of part of the motion. Chief Longman said DPS was ask not to put a specific number on how many questions would be on the form at this time. Mr. Fernandez agreed not to put a specific number.

Dan Pochoda from the ACLU came up and said they proposed the abolition of these searches due to their nature but thought this would be a good compromise. He said they are a little concern that the form would not be tied down to a certain number.

Chairman Hannah asked Chief Longman if there would be a problem if they set a minimum number of questions for the form. Chief Longman stated that there would not be a problem to set a minimum of ten questions.

Supervisor Archuleta asked if this issue was related to stop duration part of the consent form. Mr. Fernandez said they are talking about the indicators under the Consent Search Reasonable Suspicion Indicators. Mrs. Archuleta stated that at some point she wanted to talk about the data form.

Mr. Milldebrandt asked if they could read off the motion verbatim so that he knew what they were voting for.

ACTION: The motion is that DPS officers shall document the factors of that resulted in the findings of reasonable suspicion for seeking consent as soon as practical upon conclusion of the stop. The officers shall utilize a form that includes a minimum of ten factors and attach it to DPS copies of the consent search form. The resents articulated by the officer shall be reviewed by the immediate supervisor employed by the DPS record unit for a proscribed out retention period. Supervisors will receive addition training to evaluate and monitor consent searched including the review of all submitted consent search forms. Seconded by Supervisor Archuleta.

VOTE: Elizabeth Archuleta – Aye, Jean-Jacques “J” Cabou – Aye, Luis Fernandez – Aye, Zoe Kristine Hammer Tomizuka – Aye, Mel Hannah – Aye, Thomas Milldebrandt – Aye, Sal Rivera – Aye. **Motion carried unanimously**

Chairman Hannah confirmed with Dora Vasquez that they have four recommendations left to hear. Chairman Hannah asked if they should have a presentation from the Arizona Civil Rights Board. The board was fine with hearing the presentation.

6. ARIZONA CIVIL RIGHTS ADVISORY BOARD-RACIAL PROFILING OVERVIEW

Melanie Pate, Executive Director of the Arizona Civil Rights Advisory Board said they wanted to inform the Governor’s Citizen’s Traffic Stop Advisory Board about what action ACRAB is taking on racial profiling. The board has hosted three public forums in various cities across the state about the issue of racial profiling. Mrs. Pate submitted an executive summary and the minutes from the three public forums that they had. In August ACRAB sent out 800 surveys to local organizations and law enforcement agencies. They received 57 responses back from community organizations and 60 responses from law enforcement agencies. ACRAB has drafted two letters, one directed to ICE on the federal and state level, DHS, DOA and the current administration asking for an investigation into the sheriff’s office and whether they are practicing unfair racial profiling. The second letter is a letter to the Maricopa County Board Supervisors asking for a similar asks. They also want to take a lead in building coalitions to look more closely into racial profiling.

Tom Milldebrandt informed Mrs. Pate that they might take action today on a motion that DPS may create a civilian review body for the review of racial profiling complaints. He asked if ACRA is pushing for this motion. She stated that their board has not taken any action on that issue.

3. INTERNAL REVIEW SUBCOMMITTEE REPORT

Chairman Hannah stated they would go back to agenda item five and have a report from the subcommittee chair by Mr. Fernandez. Mr. Fernandez referred to the notes on the discussion that occurred in the subcommittee. Chairman Hannah asked if they should open up discussion about using an outside entity to review all complaints. Dora Vasquez said that the board has all the resources available to them to review complaints and the Governor's office does not advise using an outside entity to help with a review. Mr. Hernandez recommended that they move on the four recommendations and they could table the outside entity issue for another date. Supervisor Archuleta wanted to table the issue for a specific date. Mr. Pochoda agreed with the tabling the issue. He was concerned how an outside entity would work with the present board. Chief Longman also appreciated having more time to review the idea. Chairman Hannah still wants to review the process even though the Governor's office said they didn't need an external committee. Mr. Fernandez suggested they take recommendations from ACLU and DPS on how to expand the body in order to review some of these cases and then we can bring it back to this body to approve it. Chief Longman said that the board would need somebody trained or knowledgeable in reviewing the complaint files. He said it is highly problematic to find somebody on this board to find time to review these complaints. He believes that they should assign somebody to the subcommittee to review these cases and DPS would work something out with them. Mr. Pochoda would like to see volunteer labor involved. He wants to make the reviews have the confidence of the public. Chairman Hannah said that they need a reason to table the recommendation. Mr. Fernandez said they could take it back to the subcommittee and discuss it more. Chairman Hannah asked Dora if there were recommendations about when the subcommittee could meet. Dora said that she was leaving on the 18th of January and the Governor will be around probably till the 20th so it would be up to them if they would like to meet within the next 30 days. Mr. Fernandez said that with the holidays, the next 30 days might not be enough time. Supervisor Archuleta said that we could just continue it to the next meeting.

ACTION: Mr. Fernandez moved to continue the item that reads, "DPS should create a citizen review component for the review of racial profiling complaints." Seconded by Supervisor Archuleta.

VOTE: Elizabeth Archuleta – Aye, Jean-Jacques “J” Cabou – Aye, Luis Fernandez – Aye, Zoe Kristine Hammer Tomizuka – Aye, Mel Hannah – Aye, Thomas Milldebrandt – Aye, Sal Rivera – Aye. **Motion carried unanimously**

Dora said that staff would prepare the documents for next meeting and a cover memo to the Governor. Chairman Hannah said that sounded good. He asked is the Governor's office board, DPS and ACLU wanted to do a joint press release today. Dora said they want to do a joint press release.

Supervisor Archuleta asked if they would be able to give any feedback on the data form that DPS presented. She said that she had a concern with the field stop duration. She said that most of the stops were between 0-10 minutes long. She believes they should be broken down into smaller increments. Mr. Fernandez said that they have not been working on this it was the other form. Supervisor understood but wanted to see if this could be changed. Chief Longman said that his understanding is that it is broken up like that for analysis purposes. Some of these issues may have been agreed upon by the settlement agreement was. They could explore that more. Supervisor Archuleta said she would like to see more detail. Mr. Fernandez stated they could talk more about that during the next subcommittee meeting.

REGULAR BUSINESS

1. CALL TO THE PUBLIC

Call to Public: Chief Longman provided ACLU the University of Cincinnati's Year Two Analysis and DPS will be posting that on their website by this afternoon. Dora said they she could send the link out to the board as well. Mr. Fernandez wanted to know if DPS would be able to present those findings to the next subcommittee. Chief Longman said there is a person at the University of Cincinnati that could come and present the research document.

2. MINUTES

Chairman Longman said that he had concerns with comments made in the minutes from the Governor's Traffic Stop Advisory Board Internal Review Subcommittee Meeting. He was concerned that Mr. Milldebrant said the board was "heavily weighted" and "prejudicial" against law enforcement. Chairman Hannah said personally he did not agree with those comments and didn't want them to be reflective of the board. Supervisor Archuleta also was concerned about the comments. Mr. Cabou stated his concern as well. Mr. Milldebrandt stated that he stands by his words and that he is not surprised by his colleagues comments since, "they are a part of liberal, anti-law enforcement philosophy."

ACTION: Mr. Fernandez moved to accept the minutes. Seconded by Mr. Milldebrant.

VOTE: Elizabeth Archuleta – Aye, Jean-Jacques "J" Cabou – Aye, Luis Fernandez – Aye, Zoe Kristine Hammer Tomizuka – Aye, Mel Hannah – Aye, Thomas Milldebrandt – Aye. **Motion carried unanimously**

Chairman Hannah commended the staff especially Dora Vasquez for doing a great job. Mr. Fernandez added that he appreciated everything she has done.

Dora said that Supervisor Archuleta had news as well. Supervisor added she was going to have her first child January 27th. She stated that she would be out for a six-month leave.

7. NEXT MEETING DATE

The board agreed on the following meeting date: Friday, February 6th, 2009.

8. CALL TO ADJOURN

Meeting adjourned at approximately 12:55PM